

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

RECEIVED
U.S. DISTRICT COURT, CHARLESTON, SC

2012 JUL 24 P 2:56

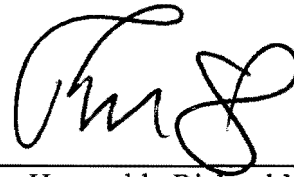
Cara Applegate,)	
)	Civil Action No.: 2:12-cv-738-RMG
Plaintiff,)	
)	
v.)	ORDER
)	
Kiawah Development Partners, Inc.)	
)	
Defendant.)	
_____)	

This matter comes before the Court on Defendant's motion to dismiss Plaintiff's third cause of action in the Complaint. (Dkt. No. 9). Plaintiff asserts claims arising under the Family Medical Leave Act ("FMLA"), 29 U.S.C. § 2615, as well as a state law breach of contract claim. Pursuant to the provisions of Title 28, United States Code § 636(b)(1)(A), and the Local Rules, all pretrial matters in employment discrimination cases are referred to a United States Magistrate Judge for consideration. In her third cause of action, Plaintiff alleges a state law breach of contract claim based on an employment agreement that she alleges she had with Defendant. Defendant asserts that Plaintiff's employment was at-will and not for a definite period of time. Plaintiff has filed a response to Defendant's motion (Dkt. No. 11) and Defendant has filed a reply (Dkt. No. 12). The Magistrate Judge issued a Report and Recommendation recommending that this Court grant Defendant's motion to dismiss Plaintiff's third cause of action for breach of contract, finding that Plaintiff has not set forth sufficient factual allegations to establish that the employment agreement at issue constituted an employment contract beyond the at-will relationship. (Dkt. No. 20). The parties were advised that any objections to the Report and Recommendation must be filed in writing within 14 days of service of the Report and

Recommendation or face limited review by the District Court and waiver of the right of appeal. *See* Dkt. No. 20 at 7; *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984). Notwithstanding these instructions, Plaintiff failed to file any written objections to the Magistrate Judge's Report and Recommendation.

The Court has reviewed the record in this matter, the Report and Recommendation and the applicable law and hereby finds that the Report and Recommendation accurately summarizes the applicable factual and legal issues in this motion. Therefore, the Court hereby adopts the Report and Recommendation as the order of this Court. (Dkt. No. 20). For the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that Defendant's motion to dismiss Plaintiff's third cause of action for breach of contract be **GRANTED**.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Gergel', is written over a horizontal line.

The Honorable Richard Mark Gergel
United State District Court Judge

Charleston, South Carolina
July 24, 2012